

NO. 24123

IN THE SUPREME COURT OF THE STATE OF HAWAII

LLEWELLYN K. WAILEHUA, JR., Petitioner-Appellant,

vs.

HAWAII PAROLING AUTHORITY, et al., Defendants-Appellees.

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 1CC97-0-004307)

ORDER

(By: Moon, C.J.)

Upon consideration of the "Declaration in Support of Request to Proceed *In Forma Pauperis*" (motion) submitted by Petitioner-Appellant Llewellyn K. Wailehua, Jr., *pro se*, and the record, it is apparent that the Clerk of the First Circuit Court, using Civil Number 99-0027, the civil number provided by Petitioner-Appellant Wailehua, filed the notice of appeal in First Circuit No. 1CC99-0-000027, prepared the record for First Circuit No. 1CC99-0-000027, prepared a case caption to match the caption used by Wailehua instead of the actual caption for First Circuit No. 1CC99-0-000027, and certified the record to the supreme court clerk. It also appears from parties names contained in the notice of appeal submitted by Wailehua and the parties' named in the public records of the First Circuit Court case number 1CC97-0-004307 that Wailehua's notice of appeal should have been filed in the First Circuit Court case number 1CC97-0-004307. Therefore,

IT IS HEREBY ORDERED that the "record on appeal" submitted by the Clerk of the First Circuit Court is stricken and this case is remanded to the Clerk of the First Circuit Court. The Clerk of the First Circuit Court shall transfer the Wailehua

notice of appeal that was wrongly filed in 1CC99-0-000027 to 1CC97-0-004307 and shall prepare the record identified as 1CC97-0-004307 for submission to the Clerk of the supreme court for appeal number 24123. The Clerk of the First Circuit Court shall submit the corrected record to the Clerk of the Supreme Court within thirty (30) days after entry of this order. The Clerk of the First Circuit Court is admonished to note that the Supreme Court of the State of Hawai'i and the Intermediate Court of Appeals of the State of Hawai'i each rely upon the veracity of the record certified by the Clerk and expect that the record, including the caption of the Record on Appeal, will be accurate.

IT IS FURTHER ORDERED that, if Appellant Wailehua believes we have erred in identifying the case from which he intended to appeal, that he shall notify this court of his belief and the reasons therefore within twenty (20) days after entry of this order. Such notification, if any, shall identify the correct case by caption and number.

IT IS FURTHER ORDERED that Appellant Wailehua's motion to proceed *in forma pauperis* is granted and costs are waived pursuant to HRS § 607-3. Appellant Wailehua is admonished to take care that all of the documents he submits to the courts contain the correct identifying numbers so that the documents may be filed in the appropriate record for consideration by the courts.

IT IS FINALLY ORDERED that the time for filing the opening brief is extended until forty (40) days after the corrected record on appeal if filed with the supreme court.

DATED: Honolulu, Hawai'i, May 8, 2001.

RONALD T.Y. MOON
Chief Justice